IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

O R D E R

Umarddin Behleem Vs. Dr. Chandra Shekhar Baid & others

(1) S.B.ELECTION PETITION NO.1/2004

Bhanwar Singh Vs. Dr. Chandra Shekhar Baid & others

(2) S.B.ELECTION PETITION NO.5/2004

UNDER SECTION 80 OF THE REPRESENTATION OF PEOPLE ACT, 1951.

Date of Order: Nov.28, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.A.K.Rajvanshi, for the petitioners.
Mr.Manish Shishodia, for respondent No.1.

REPORTABLE BY THE COURT:

1. By this common order, the applications filed under Order 7 Rule 11 C.P.C. read with Section 80 of the Representation of People Act, 1951, hereinafter referred-to as "the Act" in both the Election Petitions by respondent No.1 Dr.Chandra Shekhar Baid,

who was elected as a Member of the Twelfth Legislative Assembly for Rajasthan from Tara Nagar Constituency (21) on 4th December, 2003 on the banner of Indian National Congress vide Annex.9, are being disposed-of.

2. Though the main grounds for declaring election to be void in both the Election Petitions are about improper rejection of nomination papers filed by the petitioners as contemplated under Section 100(C) of the Act and also not impleading the other contesting candidates as respondents by virtue of Section 82 of the Act but in Election Petition No.5/2004 filed by Bhanwar Singh, an additional ground of corrupt practice committed by respondent No.1, who is a returned candidate, has also been taken, as provided for in Section 100(B) of the Act. Legality of these grounds has been questioned through these applications as preliminary objections by respondent No.1 in the light of various provisions of the Act, which will be dealt with later on, but for the sake of convenience, facts in both these petitions are summarily narrated below:

ELECTION PETITION NO.1/2004:

3. In this petition, the nomination form of petitioner Umarddin Bahleem was rejected vide Annex.5 on 15.11.2003 by the

Returning Officer on the ground that he was convicted on 27.9.2003 in Cr.Case No.8/2000 by the Sessions Judge, Anti Corruption cases, Bikaner, for the offences u/ss.409, 467, 468 and 471 IPC and also under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and was sentenced to one year's imprisonment and a fine of Rs.1000/- in each of the offences & the sentences were ordered to run concurrently vide Annex.6 and his sentence was suspended by this court in appeal vide order dated 17.10.2003 Annex.7. Petitioner challenged the validity of this order of rejection of nomination form before this Court in S.B.Civil Writ Petition No.6505/2003 which was dismissed on 19.11.2003 vide order Annex.8 with the observation that such rejection of forms are part of cause of action, which is available in the Election Petition. It is alleged that one Banke Lal was convicted by Additional Sessions Judge No.2, Dholpur in Sessions Case No.267/2001 on 28/10/2002 and was sentenced to five years' rigorous imprisonment and a fine of Rs.1000/- vide Annex.10. He filed appeal against the said order before this court in Jaipur Bench and his sentence was suspended vide Annex.11 on 12.11.2002 and his conviction was also stayed for two months vide Annex.12 on 16.10.2003 on account of his intention to contest the election in Assembly. Accordingly, his nomination was accepted by the Returning Officer vide Annex.13 on 15.11.2003 from Dholpur

(78) Assembly Constituency.

ELECTION PETITION NO.5/2004:

4. In this petition also, the nomination of petitioner Bhanwar Singh was rejected vide Annex.5 dated 15.11.2003 on the ground that he was convicted for various offences u/ss.147, 452, 353 read with Section 149 of the Indian Penal Code by Judicial Magistrate, Tara Nagar in Criminal Case No.224/1993 on 25.1.2002 vide Annex.6 in connection with obstructing polling of Tara Nagar Constituency on 11.11.1993, where petitioner contested as a candidate of Janta Dal. All the sentences were ordered to run concurrently and the maximum sentence was of two years under Section 452 read with Sec.149 IPC. The appeal was filed before the learned Additional Sessions Judge, Rajgarh, Churu, where his sentence was suspended on furnishing bail bonds and during the pendency of appeal, the judgment was also stayed on 12.2.2002 vide Annex.7. He also filed writ petition before this Court for illegal rejection of nomination form being No.6535/2003 which was dismissed vide order dated 19.11.2003 Annex.8 with the observation that the rejection of forms are part of cause of action, which is available in the Election Petition. In the Election petition, it has been alleged in para 15 that respondent No.1 alongwith his wife Smt.Subhag Baid distributed

Rs.2000/- and one pair of silver "payjeb" in different villages and Tara Nagar proper for casting votes in favour of respondent No.1. The names of six persons alongwith their places, where the amount of bribery was given, have been furnished with date and time. The additional ground of concealing movable and immovable property by respondent No.1 has also been taken in this petition.

5. From the facts and grounds taken in both the Election Petitions for declaring election void and also the applications for rejection of these Election Petitions, three questions have emerged for determination:

(i) Whether improper rejection of nomination papers on the ground of conviction & sentence, the execution of which has been subsequently stayed by the appellate Court, amounts to a disqualification under Section 8(1)(a) and 8(3) of the Act and is a valid criterion for disclosing no cause of action?

(ii) Whether the non-joinder of contesting candidates as respondents in the Election Petitions shall be hit by Section 82 of the Act and shall be a valid ground for dismissal of the Election Petitions under Section 86 of the Act?

(iii) What should be the contents of the affidavit in the prescribed form in support of the allegation of corrupt practice and particulars thereof, to comply with the provisions of Section 83 of the Act?

QUESTION NO.1:

6. In both the Election Petitions, learned counsel for the petitioners Mr.Rajvanshi has submitted that upon rejection of nomination papers, petitioners Umarddin and Bhanwar Singh filed writ petitions before this court and following order was passed by this Court vide Annex.8 of both the petitions on 19.11.2003:

> "The dispute is regarding wrong rejection of the nomination papers. Such rejection forms are part of cause of action which is available in election petition."

According to him, this order itself indicates that non-rejection of nomination paper is a good cause of action on maintainability of the petition and such petitions cannot be rejected under Order 7 Rule 11 C.P.C. read with Section 80 of the Act.

7. Whereas Mr.Manish Shishodia, learned counsel for

respondent No.1 argued that the language of this order cannot be taken as disclosure of cause of action for the purpose of disqualification under Sec.8 of the Act. He also placed reliance on certain decisions of the Hon'ble Supreme Court to be discussed hereinafter.

8. The relevant provisions of both the Statutes are as under:

The Representation of the People Act, 1951:

80.Election petitions.- No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

The Code of Civil Procedure, 1908:

11. Rejection of plaint.- The plaint shall be rejected in the following cases:-

(a) where it does not disclose a cause of action;

9. If both the provisions are read together, the Election Petition should be presented in accordance with the provisions contained in Section 80 of Part VI of the Act, else the election shall not be called in question. Part VI of the Act starts from Section 79 to Section 122. Section 100 prescribes the grounds for declaring elections to be void and clause (c) of sub-section (1) of Section 100 is about improper rejection of nomination,

whereas Rule 11 of the C.P.C. deals with rejection of plaint, where it does not disclose a cause of action. This Court in its order Annex.8 dismissed the writ petition with the observation that the rejection of nomination forms are part of cause of action, which is available in the election petition. This order nowhere says whether the cause of action has been disclosed or not. The "part of cause of action" and "disclosure of cause of action" are altogether different. The "disclosure" is ascertained from the facts in hand, while the "part" is of pleading cause of action. Whether from parts or grounds taken in pleading, cause of action is disclosed or not, is a matter of judicial review. Therefore, the contention of the learned counsel for the petitioners that rejection of nomination form is a part of cause of action and these petitions should not be dismissed as not maintainable, is devoid of force.

10. Whether these petitions disclose cause of action or they have been presented in accordance with the provisions of Part VI of the Act, is a substantial question of law and in this regard, Section 8 of the Act is material for the purpose of present controversy, which deals with disqualification on conviction for certain offences. Article 191 of the Constitution of India says that a person shall be disqualified for being chosen as and for being a member of the Legislative Assembly or a legislative council of a

State, if under sub-clause (e) of Clause (1) of Article 191 of the Constitution, he is so disqualified by or under any law made by the Parliament. The Representation of People Act, 1951, is a law made by the Parliament and the relevant provisions for the present controversy are contained in Section 8(1)(m) and 8(3) of the Act, which reads as under:

> **"8. Disqualification on conviction for certain offences.- (1)** A person convicted of an offence punishable under.-
>
> (m) the Prevention of Corruption Act, 1988 (49 of 1988).
>
> **(3)** A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) or sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release."

11. It is undisputed that petitioner Umarddin in Election Petition No.1/2004 was convicted under various Sections of the Indian Penal Code as indicated above and also under Section 13 (2) of the Prevention of Corruption Act, 1988 and was sentenced to one year's imprisonment. However, during the pendency of the appeal, his sentence was suspended by this Court on 17.10.2003 vide Annex.7 and was disqualified because of condition contained in Section 8(1)(m) of the Act, whereas sentence of petitioner Bhanwar Singh in Election Petition

No.5/2004 recorded under various offences of Indian Penal code including sentence of two years imprisonment in one of the sections of the Indian Penal Code, was suspended vide Annex.7 by the Additional Sessions Judge, Rajgarh, Distt.Churu and the judgment of the trial Court was also stayed.

12. The contention of the learned counsel for the petitioner that on suspension of the sentence and stay of the judgment, whereby conviction is stayed, the disqualification as provided-for in Section 8, is also stayed but the respondent No.5 viz; the Returning Officer has improperly rejected the nomination of the petitioners despite acceptance of the nomination papers of Bankelal and Babulal from Dholpur and Bari Constituencies respectively. In Bankelal's case, the Returning Officer of Dholpur accepted the nomination vide Annex.13 in Election Petition No.5/2004, wherein the following order passed by this court was reproduced:

> "The sentence awarded to the appellant has already been suspended by this court vide order dt.12.11.2002. The appellant intends to contest election in ensuing General Election for the member of Legislative Assembly, Rajasthan. He has been convicted for the offence u/s.307 IPC. Looking to the facts and circumstances of the case, the conviction of the appellant is stayed for two months from today. List the case for further orders on 17.2.2003."

Likewise, despite suspension of the sentence of Babulal under Section 307 IPC and stay of conviction, the Returning Officer allowed his nomination paper and he contested the election, who lost as shown in Annex.17 at S.No.3 in Election Petition No.5/2004.

13. Acceptance and rejection of nomination papers by one Returning Officer is not a binding force on the other Returning Officer. Every Returning Officer shall be nominated by the Election Commission in consultation with the Government of State, who shall be an officer of Government or of a local authority by virtue of Section 21 of the act and the general duty of the returning officer, as laid down in Section 24 of the Act, at an election is to do all such acts and things as may be necessary for effectually conducting election in the manner provided by this Act and rules or orders made thereunder. If any Returning Officer contravenes any provisions of the Act and the Rules or orders made thereunder, he acts without jurisdiction. His action without jurisdiction or in contravention of the law, can be questioned and examined in the Election Petition. If one Returning Officer has disregarded the provisions of Section 8 of the Act dealing with disqualification and improperly accepted or rejected the nomination, he has acted in contravention of Article 191 of the Constitution of India, which debars a person to be

chosen as member of the Legislative Assembly or Council, if he is disqualified under any law. Disqualification under Section 8 of the Act is a matter of controversy in both these petitions, which has now been set at rest with the latest five judges larger bench judgment of the Hon'ble Supreme Court in K.Prabhakaran v. P.Jayarajan reported in 2005 DNJ (SC) p.241. Prior to this decision, the Indian Courts were following the law laid down in Mannilal v. Shri Parmai Lal reported in (1970) 2 SCC 462 and Vidya Charan Shukla v. Purshottam Lal Kaushik reported in (1981) 2 SCC 84.

14. In Mannilal's case (supra), it was held by two-judge bench of the Hon'ble Supreme Court that in a criminal case, acquittal in appeal does not take effect merely from the date of the appellate order setting aside the conviction but it has the effect of retrospectively wiping out the conviction and sentence awarded by the lower Court.

15. In Vidya Charan Shukla's case (supra), three-judge Bench of the Hon'ble Supreme Court was of the view that when the execution of sentence of two years was stayed by the High Court, the unsuccessful candidate filed the election petition and during the pendency of it, returned candidate Vidya Charan Shukla was acquitted. While relying upon the principle laid down

in Dalip Kumar Sharma v. State of M.P. reported in (1976) 1 SCC 560, three-judge bench held as under:

> "an order of acquittal, particularly one passed on merits, wipes off the conviction and sentence for all purposes and as effectively as it had never been passed and an order of acquittal annulling or voiding a conviction operates from nativity. The conviction for the offence having been quashed by the High Court in appeal it "killed the conviction not then, but performed the formal obsequies of the order which had died at birth."

16. However, both the decisions in Mannilal's case (supra) and Vidya Charan Shukla's case (supra), came up for consideration before the Supreme Court in K.Prabhakaran v. P.Jayarajan being Civil Appeal No.8213 of 2001 and Ramesh Singh Dalal v. Nafe Singh being Civil Appeal No.6691/2002 and the Hon'ble Supreme Court while drawing support from the principle laid down in the case of Amrit Lal Ambalal Patel v. Himathbhai Gomanbhai Patel reported in AIR 1968 SC 1455 in which it was held that the crucial date for determining whether a candidate is not qualified or is disqualified, is the date of scrutiny of nominations and a subsequent event which has the effect of wiping out the disqualification has to be ignored, opined that Mannilal and Vidya Charan Shukla's cases do not lay down the correct law. Both the decisions were accordingly overruled.

17. The controversy in the larger Bench case was two fold. Firstly, whether in a case where a person convicted for two years or more and later on, by suspension of sentence and acquittal in appeal during the pendency of the election petition, it wipes out his disqualification? and secondly what will be the effect of passing sentences consecutively or concurrently? On the first question, there was a unanimous opinion of the bench but with regard to second question, Hon'ble Mr.Justice K.G.Balakrishnan disagreed with the interpretation placed on Section 8(3) of the Representation of the People Act, 1951. On the second question relating to Section 8(3) of the Act, his Lordship was of the view that if a person is convicted for the offences on many counts not exceeding two years, he cannot be held disqualified. "Any offence" used in Section 8(3) of the Act has to be taken as "out of many offences". However, the majority view of the four judges was that for the purpose of attracting applicability of disqualification under Section 8(3) of the Act, what is to be seen is the total length of time for which a person has been ordered to remain in prison consequent upon the conviction and sentence pronounced at a time. With regard to the first question about disqualification under Section 8(1) of the Act, it was held that the factum of pendency and decision in appeal setting aside conviction would not have the effect of wiping out the disqualification which did exist on the date of scrutiny of

nominations. Their lordships in para 39 of the judgment further held as under:

> "Fictionally, an appellate acquittal wipes out the trial court conviction, yet, to hold on the strength of such legal fiction that a candidate though convicted and sentenced to imprisonment for two years or more was not disqualified on the date of scrutiny of nomination, consequent upon his acquittal on a much later date, would be an illegitimate extension of the purpose of the legal fiction. However, we hasten to add that in the present case the issue is not so much as to the applicability of the legal fiction; the issue concerns more about the power of the Designated Election Judge to take note of subsequent event and apply it to an event which had happened much before the commencement of that proceeding in which the subsequent event is brought to the notice of the court. An election petition is not a continuation of election proceedings."

18. Though, one more question about disqualification of a sitting member was also involved in the case but it is not useful for the purpose of controversy involved in the present petitions. In addition to the doctrine of legal fiction as discussed above, on the date of actual period of imprisonment for the purpose of Section 8(3) of the Act, their Lordships while relying upon the case in Sarat Chandra Rabha v. Khagendranath Nath reported in (1961) 2 SCR 133 and B.R.Kapur v. State of T.N. reported in (2001) 7 SCC 231, further held as under:

> "42. What is relevant for the purpose of Sec.8(3) is the actual period of imprisonment which any person convicted

> shall have to undergo or would have undergone consequent upon the sentence of imprisonment pronounced by the Court and that has to be seen by reference to the date of scrutiny of nominations or date of election. All other factors are irrelevant. A person convicted may have filed an appeal. He may also have secured an order suspending execution of the sentence or the order appealed against u/s.389 of the Code of Criminal Procedure 1973. But that again would be of no consequence. A Court of appeal is empowered u/s.389 to order that pending an appeal by a convicted person the execution of the sentence or order appealed against be suspended and also, if he is in confinement, that he be released on bail or bond. What is suspended is not the conviction or sentence; it is only the execution of the sentence or oder which is suspended. It is suspended and not obliterated."

19. Thus, it is clear that under Section 389 of the Code of Criminal Procedure, the conviction or sentence is not suspended but it is the execution of the sentence or order, which is suspended. If, while relying upon the decision of this Court in Banke Lal and Babulal's cases (supra), the Returning Officer has allowed their nominations, it cannot be a ground for the present petitioners to agitate the same in these petitions. The judicial review cannot be termed as discriminative, being violative of Article 14 of the Constitution of India where disqualification was existing under Section 8(1)(m) and 8(3) of the Act with both the petitioners in the light of the ratio laid down by the five judges larger Bench of the Supreme Court, as referred-to above, when election authorities under the Act have acted in disregard to the statutory provisions having been enacted to put check on

criminalization in politics and to bring purity in public life.

20. Accordingly, the Question No.1 is answered in favour of respondent No.1 and against the petitioners by holding that on the date of filing of nomination papers, petitioners Umarddin Behleem and Bhanwar Singh were having disqualifications as provided for in Section 8(1)(m) and 8(3) of the Act respectively and their nominations were properly rejected by the Returning Officer and no cause of action is disclosed on the basis of such rejection.

QUESTION NO.2:

21. It is an admitted position that all the contesting candidates have not been joined as party to the petition. As per Annex.9, there were 10 candidates to the Tara Nagar (21) Assembly Constituency of Rajasthan, the result of which was declared on 12.2.2003 and respondent No.1 Dr.Chandra Shekhar Baid belonging to the Indian National Congress was declared elected against his nearest rival Shri Jay Narayan Puniya. The respondents No.2 to 10, who were the contesting candidates either as independent or from different political parties, have not been joined as respondents.

Section 82 of the Act reads as under:

> **"82. Parties to the petition.-** A petitioner shall join as respondents to his petition -
>
> **(a)** where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates."
>
> **(b)** any other candidate against whom allegations of any corrupt practice are made in the petition."

22. The opening words of this Clause (a) says that in addition to claiming declaration that the election of a returned candidate is void, if petitioner claims further declaration of his election, all the contesting candidates shall have to be joined and if no such further declaration is claimed, all the returned candidates shall be joined. In my view Section 82 (a) has to be read as a whole. It clearly mandates that all the contesting candidates should be joined as a party except those who have withdrawn, if the relief claimed is for declaring the petitioner as elected. Even after retirement, a candidate continues as a contesting candidate, if he has not withdrawn, whereas under Clause (b), such other candidate shall be joined against whom allegations of corrupt practices are made in the petition. This Section is based on the doctrine of necessary implication. Non-compliance of Section 82

of the Act shall, of-course, be a valid ground for dismissal of an election petition but in this petition, petitioner has not claimed himself to be declared as elected or alleged corrupt practice against other candidates because he was not the contesting candidate in the light of Section 38 of the Act. Therefore, non-impleading contesting candidates other than the returned candidate, is not fatal, when further declaration is not claimed. I am fortified with this view from the law laid down by the Hon'ble Supreme Court in K.Kamaraja Nadar v. Kunju Thevar reported in AIR 1958 SC 687, wherein it has been held as under:

> "Section 82 prescribes who are the necessary parties to such petition. The petitioner may merely claim a declaration that the election of all or any of the returned candidates is void. If he does so he must join as respondents as to his petition all the returned candidates and any other candidate against whom allegations of any corrupt practice are made in the petition. If, however, in addition to claiming such a declaration the petitioner claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and any other candidate against whom allegations of corrupt practices are made in the petition must be joined as respondents to that petition."

23. In the light of the above interpretation of Section 82 of the Act, petitioner has neither claimed himself to be duly elected nor any other candidate vis-a-vis allegations of corrupt practices are made against any other candidate except the returned candidate

by virtue of Section 82 of the Act, therefore, non-impleading contesting candidate as party to the petition, is not hit by Part VI of the Act to dismiss the petition on this count under Section 86 of the Act. This question is accordingly answered in favour of the petitioners & against the respondent No.1.

QUESTION NO.3:

24. With regard to this question, corrupt practices said to have been committed by the respondent No.1 are mentioned in para 15 of the Election Petition No.5/2004 by petitioner Bhanwar Singh in which it is alleged that respondent No.1 and his wife Smt.Subhag Baid distributed Rs.2000/- and one pair of silver "payjeb" in different villages and Tara Nagar proper for casting votes in favour of respondent No.1. In this para, the names of six different persons alongwith their places at which the amount was given, have been furnished vis-a-vis date and time and an affidavit has also been attached at page 18 of the petition. Para 3 of the affidavit says "para Nos.1 to 17 of the petition are true and correct to my personal knowedge". If this affidavit is looked into in the light of para 15, then it is clear that this bribery was given in the presence of petitioner because personal knowledge is either presence of petitioner himself or based on any other

source. It is not stated in para 15 that either this bribery was given in the petitioner's presence or petitioner came to know of it from some other source. Further, no affidavit or any other document in support of the bribery has been furnished with the petition, in absence of which, these allegations cannot be termed as genuine but are of wild nature. That is why, the legislature has provided for strict proof of such allegations of corrupt practices under sub-sec.(1) of Section 83 of the Act, which reads as under:

> **"83. Contents of petition.-** (1) An election petition -
>
> (a) xxx
> (b) xxx
> (c) xxx
>
> Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof."

25. As per this proviso to Clause (c) of sub-sec.(1) of Section 83 of the Act, when allegations are of corrupt practices, the petition shall be accompanied by an affidavit in the prescribed form and this prescribed form is given under Rule 94-A of the Conduct of Elections Rules, 1961, which reads as under:

> **"94-A Form of affidavit to be filed with election petition.-** The affidavit referred to in the proviso to sub-section (1) of Section 83 shall be sworn before a

magistrate of the First Class or a notary or a commissioner of oaths and shall be in Form 25."

[FORM 25
(See Rule 94-A)
Affidavit

I, ..., the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati .....(respondent No. .....in the said petition) make solemn affirmation/oath and say, ---

(a) that the statements made in paragraphs ..... of the accompanying election petition about the commission of the corrupt practice of* .....and the particulars of such corrupt practice mentioned in paragraphs ..... of the same petition and in paragraphs ..... of the Schedule annexed thereto are true to my knowledge;

(b) that the statements made in paragraphs. ..... of the said petition about the commission of the corrupt practice of* ..... and the partilculars of such corrupt practice given in paragraphs. ..... of the said petition and in paragraphs. ..... of the Schedule annexed thereto are true to my information;

(c)

(d)
etc.

Signature of deponent.

Solemnly affirmed/sworn by Shri/Shrimati .....at .....this ..... day of .....200.

Before me,
Magistrate of the First Class/Notary/
Commissioner of Oaths.]

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*Here specify the name of the corrupt practice.

26. According to this Rule, the prescribed form to be sworn in before a magistrate of the First Class or a notary or a commissioner of oaths, is Form 25 annexed with the aforesaid Rules as referred above in which it is mentioned at part-A that the statements made in paragraph (so & so) about the commission of the corrupt practices should be specifically mentioned in the affidavit itself and are true to his personal knowledge or true on the basis of the information furnished to him. Admittedly, the affidavit annexed with the petition at page 18 does neither specify the name of the corrupt practice nor about personal knowledge nor source of information and is not in accordance with the Form 25 of Rule 94-A of the Conduct of Elections Rules, 1961. Thus, non-compliance of this statutory provision contained in the Election Rules is hit by proviso to Clause (c) of Section 83(1) of the Act and this Election Petition cannot be said to have been presented in accordance with the provisions of Part VI of the Act as contemplated in Section 80, hence this question is answered in favour of respondent No.1 and against the petitioners.

27. In view of the findings, as discussed above, on Question Nos.1 and 3 regarding rejection of the petitioners' nomination forms by virtue of disqualification incurred u/s.8 of the Representation of People Act, 1951 and affidavits filed by them

not being in prescribed form, as provided-for in Rule 94-A of the Conduct of Election Rules, 1961, the applications filed under Order VII Rule 11 CPC read with Section 80 of the Act by respondent No.1 Dr. Chandra Shekhar Baid are allowed and these Election Petitions are dismissed with costs, which is assessed at Rs.10,000/- in each of the petitions.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS